IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, CIVIL JURISDICTION

WRIT PETITION NO.6203 of 2005

Waheed Akhtar Ansari...Petitioner
Vs.
The State of Maharashtara..Respondents

Mr. A.N. Maniyar, for the Petitioner
Mr. R.D. Rane, Government Pleader for respodnent Nos. 1 and 2.
Mr. Nusrat Shah for Respondent Nos. 3 and 4.

CORAM: F.I. REBELLO &
DR. D.Y. CHANDRACHUD,JJ.
DATE : 28th September, 2005

P.C.:

. Rule. Heard forthwith.

2. The petitioner had earlier approached this Court by filing Writ Petition No.1680 of 2004. That petition came to be disposed of by order dated 2nd July, 2004. A direction was issued permitting the management to hold disciplinary proceedings for the purpose of enquiry on the charge of misconduct against the petitioner. That was on the peculiar facts, considering the charge which may amount to sexual exploitation.

3. Subsequent to that the management conducted an enquiry. That is subject matter of the present petition. It is the case of the petitioner that considering that the petitioner is a Shikshan Sevak the enquiry could not have been conducted by the management, but by a Committee consisting of (1) Retired District Judge, (2) Deputy Director of the

concerned region and (3) Education Officer (Secondary) of the concerned region in terms of the direction given by this Court and which has been accepted by the State Government.

4. The other grievance of the petitioner is that though he has been suspended subsistence allowance has not been paid to him. The contention as urged on behalf of the respondent is that the petitioner is employed elsewhere and as such he would not be entitled to subsistence allowance. We do not propose to to into that issue presently and leave it open for the petitioner if finally aggrieved by the order passed to ventilate his grievance before the Grievance Committee.

5. In so far as the enquiry is concerned, the petition will have to be allowed in as much as it is only the Committee as set out earlier which is the Committee which can also go into the issue of misconduct. In the light of that Petition made absolute in so far as prayer clause (a) is concerned. We further direct the management to refer the complaint in respect of which charge sheet was issued to the Committee for their consideration. It will be open to the petitioner to contend before the Committee that what can be considered is only the complaint based upon which his services were terminated. All these issues are left open to be considered by the Committee.

. Rule made absolute accordingly. No order as to costs.

(F.I.REBELLO, J.)

(DR. D.Y. CHANDRACHUD, J.)